

THE  
DEBATES  
IN THE  
House of Commons

Assembled at

OXFORD

March the 21st. 1680,

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Reprinted 1681

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THE  
D E B A T E S  
In the House of Commons assembled at  
O X F O R D

*March the 21st. 1680.*

The three first days being spent in chosing their speaker, the confirming of him, and taking the Oaths as the Law directs; On *Thursday* the 24th. of *March* 1680. *They began thus.*

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*Thursday March the 24th. 1680.*

*Sir J. H.* **M**R. *Speaker*, What I am about to Move, concerns us all. The last Parliament when you was moved to Print your Votes, it was for the Security of the Nation, and you found it so,. It prevented ill Representations of us to the world, by false Copies of our Votes, and none doubted your Honour in the care of it. And I am confident that this House will be no more ashamed of their Actions than the last was. Printing our Vote will be for the Honour of the King, and the safety of the Nation. I am confident if it had been necessary you would have had Petitions from the parts I come from. that your Actions might be made publick. As I came hither, every body almost that I met upon the Road, cryed, God bless you in what you are going about. I Move therefore, that your Votes may be Ordered forthwith to be Printed, with the rest of your Proceedings; and I shall onely add, that your self has done so well in taking that care upon you the last Parliament, that the House will desire you to continue them in the same Method.

*Sir W. C.* That which put me upon Moving the Printing your Votes the last Parliament, was false Copies that went about in former Parliaments, of the Votes and Transactions of the House. Let men think what they please, the weight of *England* is the people : and the more they know, the heavier will it be : and I could wish some would be so wise as to consider that this weight hath sunk ill Ministers of State ( almost ) in all Ages ; and I do not in the least doubt but it will do so to those who are the Enemies of our Religion and Liberties. And the world will find the honest Commons of *England* will sink Popery at last, therefore I second the Motion.

*Sec. J.* I beg pardon if I consent not to the motion of Printing the Votes, &c. consider the Gravity of this Assembly. There is no great Assembly in Christendom does it. 'Tis against the gravity of this Assembly., and 'tis a sort of Appeal to the people. 'Tis against your gravity, and I am against it.

*H. B.* If you had been a Privy-Council, then 'twere fit what you do should be kept secret, Your Journal Books are open, and Copies of your Votes in every Coffeehouse ; and if you Print them not, half Votes will be dispersed to your prejudice. This Printing, &c. is like plain *English-men*, who are not ashamed of what they do ; and the people whom you represent will have a true account of what you do, you may prevent the publishing what parts of the Transactions you please, and Print the rest.

*L. G.* I find that those who write out the Votes and Transactions and send them all *England* over . are favoured ; and I believe no Gentleman in the House will be against Printing them but the Secretary. I hope you will not have reason to be ashamed of what you do, therefore I am for Printing, &c.

*Col. M.* By experience we have found, that when former Parliaments have been Prorogued or Dissolved , they have been sent away with a Declaration against their proceedings. If our Actions be nought, let the world judge of them ; if they be good, let them have their virtue. 'Tis fit that all Christendom should have notice of what  
you

you do, and posterity what you have done, and I hope they will do as you do, therefore I am for printing, &c.

*Sir F. W.* What has been said by the Secretary is a single opinion, ( for he says that printing the Votes is an Appeal to the people ) I hope the House will take notice, that printing the Votes is not against Law. But pray who sent us hither? The Privi-Council is constituted by the King, but the House of Commons is by the choice of the people. I think it not natural nor rational, that the people who sent us hither, should not be informed of our Actions. In the Long Parliament it was a Trade amongst Clerks to write the Votes and dispers them, and were questioned for it there; but 'twas then said by a Learned Gentleman, that 'twas no offence to inform the people of the Votes of Parliament, the Journal Books being open, and the people ought to have notice of them. The Long Parliament were wise in their generation, to conceal many things they did from the people, and yet the Clerk was sent away, ( who dispersed the Votes ) and had nothing done to him. The Popish party dread nothing more than Printing what you do, and I dread a man in the Secretaries post and such an accusation as was upon him in the last Parliament, that he should hold such a position, that printing the Votes is an Appeal to the people. *Vide the Printed Vote of this day.*

*A Motion was made to inquire into the Miscarriage of the Bill for Repeal of 35 Eliz. &c.*

*R. H.* I think the Motion is to inquire after the slipping of that Act the last Parliament, and not presenting it for the Royal assent. For my own part, I look upon it as a breach of the constitution of the Government. We are told that we are Republicans, and would change the Government, but such as are about to do so, 'tis a natural fear in them to be thought so, and they will cast it upon others. In a crowd 'tis frequent for pickpockets to cry out, Gentlemen have a care of your pockets that they may more securely do it themselves, and have the less suspicion upon them. I will not offer this great thing to the consideration to day, but Move you to Adjourn it till to morrow.

*Sir F. W.* I shall humbly put in this word. I doubt this matter  
will

will be too big to be debated to day, 'tis of great importance, and will not be forgotten; be pleased to Adjourn the Debate, &c.

*Sir N. C.* I humbly Move, that for the preservation of the Protestant Religion, and the Kings Person, a Bill be brought in to prevent a Popish Successor, and in particular against *James Duke of York*, the same Bill which past the last Parliament.

*Sec. J.* You are upon rising, and I shall not detain you long. I must give my Negative to this motion, and my reason why I do so, is because the King hath declared in his Speech, that as to the point of altering the Succession, he cannot depart from what he has so often declared. The King has given his Vote against it, therefore I must do so to.

*L. G.* The D. of *York* is in *Scotland*, and I hope the King will come up to what he has said in his Speech. My Liberty and Property is dear to me, and I'll support the K's Prerogative too; and I hope we shall remove those people, Briars and Thorns who scratch you in your intentions against Popery; which I see we cannot prevent without this Bill to exclude the Duke &c. And therefore I am for it.

*Col. B.* I am heartily glad to find that the Zeal of the House still continues for the preservation of the Protestant Religion. My Opinion is, that we cannot preserve the Protestant Religion with a Popish Successor to the Crown, no more than Water can be kept cold in the hot Pot; but I would do it in all the decent ways to come at it. The King recommends to you in his Speech, to look back to what he formerly said as to the Succession, &c. If there be no other way to prevent Popery, but a Bill to Exclude the D. &c. from the Successor, &c. my Opinion is, That 'twill be more decent to our Prince, and better for those who sent us hither, that before the Bill be brought in, to give it the honour of a day, to consider of the Expedients to save Religion under a Popish Successor; For that I shall expect from some Honourable Persons: but if none come, then you may proceed to this Bill with more honour. Therefore I move to appoint a day to consider of it.

*Sir J. E.* I should not have troubled you, but from what was spoke  
last

last. By all means just and lawful, we are to secure our Religion and properties: We see the great attempts made upon us from *Rome*, and we must do something for our farther security. I will not speak of the former Bill of Excluding the D. &c. nor of the K.'s Speech, that gives you latitude for Expedients; and I would not offer any, if I thought they would not do as well as that Bill, which is but an Expedient. But because the K. has declared against that Bill, and invited you to Expedients, I would not put that Bill any more to the hazard of rejection, but think of some Expedients.

*W. H.* I can see no Expedient to save Religion and preserve the K's person, but the Bill to Exclude the D. &c. All Gentlemen I believe would be willing as to the Manner and save the Matter: But when our Prince is encompassed (all) with the D.'s Creatures, the D.'s safety is because of their dependencies: The danger is not from Popery, but from the King's being encompassed with the D.'s Creatures. I would proceed in this matter with all decency; and since a day is moved for, pray let's have time to consider.

*Sir. C. M.* You are invited by the K.'s gracious Motion to consider how to preserve Religion &c. I desire we may not now put a question for bringing in a Bill to exclude the D. &c. else properly we cannot consider any Expedients for preservation of Religion.

*B. W.* The consideration of the preservation of the Protestant Religion, is of that weight, that though we have shew'd our zeal to it, yet I would not run upon a thing of this great nature, without consideration. They who advised the K's Speech, must answer for it. The words of the Speech are, *If any other way can be found out, &c.* *Vide* I think those about the King have don enough to ruine Him and Us: But I would have the K. see we are so far from putting him upon that stress, that we would help him out. I think that Speech the K. read to us, to have nothing of the King's in it; He is a better man, and a better Protestant, than to do it of himself: therefore I would not put our Resolution as flat and as short as that is in the King's Speech. The King has gon as far as this Resolution in his Speech comes to, in his Declaration about Dissenters formerly: and yet from  
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the Reasons from hence, he was perswaded to revoke it. If persons have been so prevalent as to put the King upon this Speech, let me see those persons so forward to bring the King into a thing to help him out; if they do not, I hope the King will lay the blame at their doors, and not at ours. If they could have told us what Expedients were necessary, they would have put them into the King's Speech, and the Resolution-part of not altering the Succession would have been left out. A little consideration of this great matter, can do us no hurt, and will satisfy the people without doors. But if they about the K. can find out no Expedients, I hope he will lay them aside, and take their counsel no more. Put not off this Consideration farther than *Saturday*; and if they can find us out an Expedient betwixt this and then, 'tis very well.

*H. P.* I have always observed, that the most deliberate Proceedings have had the best success here, and the best reputation abroad.

I am as willing as any man to come to this moved for, but with deliberate steps. For my share, though I hear of Expedients abroad, yet I cannot conceive that a Title or name can destroy the nature of Expedients. But the King in his Speech has held you out a Handle (*vide*) And I would not give those about the Kings occasion to say, that this House running into a Breach with him. I would pay the King all the Respect in the world, and you cannot avoid setting apart a time to consider Expedients; and I would not mix any thing with the Debate that day. I think to morrow is too soon to debate it: I shall propose *Saturday* for that Consideration; and then let us do what's fit in so weighty a matter.

*R. H.* This is a matter of great weight, and I would adjourn it to to morrow. For the reason of proposing Expedients, I do not move to *Adjourn* for that; for it 'tis as little reason to me to expect any, as 'twas the last Parliament, That Parliament gave reasons why no Expedients could be of any effect, but this Bill of Exclusion; and that Parliament saw enough of Expedients. There are a great many talked of abroad in the streets, and won't you hear Expedients? What can a man say less with any modesty? But no man can say but  
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we are in danger of losing our Religion, if the D. should come to the Crown. But the Question before you is, Whether you'll put off this Debate? Therefore I move that the House will take into Debate the security of the Protestant Religion to morrow.

*Sir F. W.* All that I shall propose is, That you would so word the Question as to have no diminution to the Motion made for the Bill &c. upon your Books, nor prejudice, nor reflection, When this Bill past the last Parliament, it was *Nemine Contradicente*; and most of this Parliament were of the last. For Expedients, 'tis a word mightily used and talked of, and willingly embraced; but none have been proposed. Let this matter be reassumed on *Saturday-morning*, and so taken into consideration to secure the Protestant Religion; and not to let appear upon your Books any thing relating to Expedients or preventing a Popish Successour.

*J. T.* I was much surprized at the K.'s Speech, considering your weighty Reasons for the Bill, &c. the last Parliament; and that the Lords found out no Expedients for preservation of Religion, and yet threw out the Bill. But that the K. may see that what we do, is out of real sense of the danger we are in from a popish Successour, and not in contradiction to him; and when nothing is found out to save us, we may justifie our selves in what we do, I am for adjourning the Debate.  
*Vote, vide the Print.*

*Friday, March 25. 1681.*

*Thanks moved for free Choice of Members.*

*J. S.* **W**Hen there has been a general Corruption, and all have not done their duty, you should distinguish and give thanks to them that have; and formerly you have done to Officers for doing their duty in suppression of Popery, when through the corruption of the times some have not done their duty. Nothing is more Parliamentary than to return Thanks to those who have freely and without expence chosen you Members; and I desire that the Members so elected may be ordered to send their Thanks to those who chose them. *Vide the Vote in the Print.*

*The loss of the Bill for repeal of 35 Eliz: moved.*

*Sir W. J.* This matter deserves material consideration, whether in respect of the loss of the Bill, or the shaking of the very Constitution  
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of Parliament. The Bill that is lost is of great moment, and of great service to the Country, and perhaps to their lives in the time of a Popish Successor. Those men that hindred the passing that Bill had a prospect of that ; and if it be sent up again, we are like to meet with great opposition. But be the Bill what it will, the president is of the highest consequence ; The King has his Negative to all Bills ; but I never knew that the Clerk of the Parliament had a Negative, if he laid it aside or not. But consider, if we send up many good Bills, if this be not searched into, we may be deprived of them. No man that knows Law or History, but can tell that to Bills Grateful and popular the K. gives his consent to them——But if this way be found out, that Bills should be thrown by, it may be hereafter said, they were forgot and laid by, and so we shall never know whether the K. would pass them or no. if this be suffered, 'tis in vain to spend time here ; and 'twill be a great matter to find time to redress it. I move therefore, that a Message be sent to the Lords for a Conference, that some way may be found out to give us satisfaction in this great matter.

*H. B.* I do concur with the Gentleman spoke last, that Parliaments are Prorogued and Dissolved by the King, and now here is a new way found out to frustrate Bills. The K. cannot take one part of a Bill, and reject another, but gives a direct answer to the whole. But to avoid that, this Bill was never presented to the K. a thing never done before I desire we may send to the Lords for a Conference, to represent this Innovation, and that a Committee be appointed to draw up Reasons for the Managers.

*W. G.* I was a friend to this Bill, and I agree in all things concerning the weight of it. The laying this Bill aside, is such a breach of the Constitution of Parliament, that 'tis in vain to pass any Bill if this miscarriage be not searched into. By the constitution of Parliaments, all Bills but Money-Bills, after they are past both Houses, are deposited in the Lords hands ; 'tis below you to look after the Clerks for this Bill. If the Lords give you no answer for the loss of this Bill, that is satisfactory ; I would then send to them to know a Reason why the Bill was not tendred to His Majesty with the other Bills.

*Sir R. H.* I would have you search the Lords Journals, and if you find no account of the Bill there, then 'twill be time for us to go to the  
Lords.

### Lords to require satisfaction.

*Sir R. T.* I have not much to offer you, but I fully concur in the weight and consequence of this matter, and you are to take all the care you can to secure it for the future. Never any thing of this nature was done before, but the Bill for observation of the Lords day in the late long Parliament. 'Twas left upon the Table at a conference, and stolen away. But 'tis not proper ( I conceive ) to take notice of this in a Message to the Lords, because the miscarriage of this Bill was in another Parliament. The matter must go upon the desire of a Conference with the Lords, concerning the Rights and Priviledges of both Houses of Parliament ; and then you may appoint a Committee to inform you of the progress of this matter.

*E. V.* I think the passing over the inquiry after the loss of the Bill of the Sabbath, in the late long Parliament, was the great occasion of the loss of this. Consider how many interruptions Parliaments have had of late in the greatest business, by Prorogations and Dissolutions; and another way to gratifie your Enemies, is to stifle your Laws, when they have a mind the people should have no benefit of them, though they have passed both Houses. Therefore I Move, &c. *ut ante.*

*Sir H. C.* I differ only as to the words. I agree to a Conference, but no more to be said, then to know what's become of the Bill ; for the Lords are the Depositories of all Bills but money. Without any other words I would send the Lords for a conference , to know what's become of the Bill. I know but of three Negatives, but by this proceeding here is a fourth Negative, which may destroy the Government.

*S. T.* 'Tis the best way in this matter to observe old methods ; and the best method to know the Lords minds, is by Conference, I remember in the late long Parliament, the Lords sent to us for a Conference, and at it told, the Roof of our House was falling on our heads; but they sent us not a message of the danger we were in by the falling of the Roof but desired a conference about a matter of great consequence: Therefore I would now send to the Lords for a Conference of matters relating to the Nation.

*R. H.* I would say this, We desire a Conference with the Lords concerning the Constitution of Parliaments in matters relating to passing

sing of Bills. *Vide Printed vote.*

*Sir T. L.* This is a thing of as high weight as we can confer upon. Therefore I would not do less than in a thing of lesser moment. Let a Committee meet, and then agree of the subject matter, till then you know not what to say at the Conference; and 'twill be Munday at the soonest before you can do it. I shall offer another thing at the Conference; I would offer the Lords the consequence of this way of proceeding, and to desire the Lords to put the thing into a way of Examination, that the Complices may be fit for punishment: And at the same Conference, would desire a Committee of both Houses to consider where the Miscarraige lay.

*Danby's Case Reported, &c. The Account of Fitzharris, and the Libel read, &c. Treby's Examination, &c.*

*Sir J. H.* I humbly move *Fitzharris's Examination* may be printed, for the world to see the Devilish Conspiracies of the Papists.

*Sir W. J.* I like the motion for Printing; nothing is in this paper but what's fit to be printed. It fully makes out those Informations you have had before. And because we all know that since my Lord *Staffords* Tryal, people have been prevailed upon to believe the Plot not true, and this confirms *Oates* and *Bedloes* Informations, I would have them Printed, but not the Libellous paper which reflects upon the King.

*Sec J.* I will not trouble you but with that part I had in this affair. The Paper was read over to the King by *Sir William Waller*. Therefore according to the Kings Command, I issued out a Warrant for apprehending *Fitzharris*, and *Sir W. Waller* was to take care of the execution of the Warrant.

*Sir E. W.* This is a matter of great Importance, and we ought to acquit our selves in it like wise men. We that come out of the Countrey hear, that that Treasonable Paper which has been read by *Sir W. Waller*, was to have been sent to many Gentlemen, they to have been seized thereupon, as Traytors in the Conspiracy; it may be this was that new Plot. All we have is at the stake, therefore how long or short our sitting is like to be here (the Trooper *Harri-*  
*son* said there would be other Guards at *Oxford*) let not our courage lessen. This being our case, let us go to the bottom of this business,  
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of *Fitzharris*. Therefore I Move, he may be sent for and Impeached. We know by experience, when once an Accusation is in Parliament on Record, and in the greatest Court of the Kingdom made known, Malefactors have not been cleared, and you have had Justice; therefore I would have care taken that this Man be Impeached of High-Treason, and it may be he will relent and tell you all.

*Sir R. C.* When *Fitzharris* Examination was taken at *Newgate*, he asked whether he had said enough to save his life. I told him, I thought he had not dealt ingeniously, unless he would tell what Counsel he had for Drawing and Modelling the paper; and I bid him be ingenuous in the whole matter, and I would come and take his farther Examination. But the next day after he promised this, he was removed out of our reach into the *Tower*. *Impeachment Ordered, vide in the Print.*

*'Twas moved that Secretary Jen. should carry up the Impeachment to the Lords.*

*Sec J.* The sending me, upon this Message, &c: reflects upon the King my Master; and do what you will with me, I will not go. *Many called, to the Bar, to the Bar.*

*See T. L.* I would not have said one word, but that the very being of Parliament is in the case. 'Tis to no end to sit here any longer if this be suffered. There can be no ground, reason, or thought, to bring the King in question, or reflection upon him in this Impeachment or on the Secretary. But for him to say, do what you will with me, I will not go with the Impeachment, is what I never heard said in Parliament before. Let the words fell from him be written down before he explain them, according to the Order of the House.

*Sir G. H.* I never heard such words before, that the whole House of Commons should reflect upon the King and that he will not obey your Order; let the words be written down.

*J. T.* The House will be contemptible to the extreamest degree if this be suffered. Such a thing as never was in Parliament before, that the whole House should reflect on the King, and for him to say do what you will, I will not go. *Moves ut ante.*

*Sec J.* I said no such thing, that the House reflected on the King, but that I take it as a reflection upon the King my Master.

*J. T.* His words were, This had not been put upon me, but for the Character I bear.

*At last the Secretaries words were thus stated, This Message is put upon me for the Character I bear. I value not my Life nor Liberty, do what you will, I will not go.*

*Sec J.* I say this is put upon me; to my apprehension, for the Character I bear, and do what you will with me I will not go.

*Sir W. J.* I am sorry to see any Member behave himself at this rate. This Department confirms me in the opinion of the design of some men, to suppress the Honour of this house; There has been a Book written (which I hope in time it will be inquired after) That the House of Commons sprang first out of Rebellion in *H.* 3. time. This goes on this day in the same method. Let a man be of what quality he will, if he be too big to be your Member, he is not to be chosen. To scorn the Commands of the House, and to be too big to be a Messenger of the House of Commons! Secretaries are sent of Messages every day, and is he too big a Messenger to accuse a person of the Popish Plot? His words seem to import, as if the King would not have the prosecution of the Plot. If this be so, sit no longer here, but go home. His Character is great, and he may be privy to things hid from us, by this extraordinary carriage. Are we come to that pass, to be dealt withal, as none of our Predecessours ever were? If my Brother or Son dealt with the House thus, I would call him to account. For ought I see, he provokes the House more by his Explanation, therefore pray go on.

*Sec J.* I am as ready, and think my self as much obliged to obey the Commands of the House, as any man here. The Office I have excludes me not from it; but the thing I stand upon is, that the Motion was carried on in Ridicule. I have an Honour for this, and ever had for all Houses of Commons; but in this Message I must and will be excused.

*Sir H. C.* Ridicule is not a word proper for a House of Commons; and what is appointed by this House, is done with all gravity, especially where the life of a man is concerned. We are in an unfortunate Age, now things come to more light than before, that it should be said that Impeachments strike at the King, that the Dukes Bill, &c. is aimed

med at the King: I am sorry to hear it said here, as well as in other places. This Imp'oyment he is put upon, is for the Kings service, and he tells you it reflects upon the King. All is reversed, if what the Commons do; must be as if it reflects upon the King. I have all imaginable respect to the King: but Sir, we are in a Ship, and we have to do with the Master, and he with us. If this Gentleman would make any sort of excuse, I would willingly accept it; but he has not yet taken off his Crime, but rather aggravated it. If he have nothing farther to say, he must withdraw, and then you'll have a Motion made for the Honor of the House.

*Sir T. M.* I know no other difference in any person here; if the Secretary said, I thought it reflected on the King, a man may be mistaken in his thoughts, and in case it be so, he would suffer any thing under that reflection. He said it was his thoughts, that the carrying the Message was a reflection upon the King, and in that case would suffer any thing rather than a reflection upon the King and his Character.

*Sir J. E.* 'Tis an ill thing to stumble at the entrance; I hope the Secretary intended no dis-service to the House, but on a mistake: I did apprehend it, and some others, that it was in jest. But in jest or earnest, one ought to obey the Commands of the House; but every man cannot subdue his own Heart. But I would know upon farther consideration, whether the Secretary will undertake this service or no. I am the worst Advocate in the world for any obstinate person. But I humbly offer, whether the Gentleman will serve you or no before he withdraw.

*Ern<sup>l</sup>.* removed from his place and whispered with the Secretary.  
*Sec. J.* Since the House is so favourable as to hear me, I shall only say, that I did apprehend sending me with the Message to the Lords, was a reflection upon the King; if I did apprehend it a reflection upon my Master, I could not but resent it. I am heartily sorry I have incurred the displeasure of the House, and I hope they will pardon the freedom of the expression. I apprehended it a reflection upon the King, and no other consideration whatsoever induced me to say the words.

*M. F.* I Look upon this has come from the Secretary, as so great

great a Reflection upon the House, that he ought to come to the Bar upon his knees, and ask pardon of the House.

*H. B.* We are all Subject to Infermities; seeing that the thing is so, the Secretary could not apprehend any reflection on the King by sending him with the Message, but he might apprehend it on himself; it was a little smilingly moved: but since he has explained himself, I would have this, &c. past by, as I would on the like occasion desire for my self.

*Ld. C.* The Gentlemans fault is a great one, but that after he has begg'd the pardon of the House, I am willing to pass it over. Though it be a great fault, yet 'tis too little to give occasion of a Breach at this time.

*Sec. J.* I am ready to obey the Order of the House, and I am sorry my words gave offence.

*So he went on the Message.*

*Col. B.* We ought all to give God thanks for this Discovery of *Fitzharris*, next to the first Discovery of the Plot. It is a great service to the Nation, and 'tis not the first that *Sir William Waller* has don. If ever the thanks of the House was deserved, it is for this Discovery; and I Move *Sir William Waller* may have the thanks of the House. *Ordered, vide the Print.*

SATURDAY, March 26. 1661.

*Order of the day vide Print.*

*Sir R. C.* I Confess I have been full of Expectation of some Expedient to secure the Life of the King, and the Protestant Religion, without the Bill for Excluding the Duke, &c. My expectation is from those who opposed the Expedient of the Bill, (for I can call it no otherwise) I have in my weak judgment weighed all Expedients I have heard of, and they seem all to me to be a breach of the Constitution of the Government, and to throw us into disorder and confusion. I have heard that it has been an ancient usage that Members have consulted the Cities, Burroughs, and Counties in any thing of weight, as well as giving Money, before they resolved it. The practice was good, and I wish it were continued; and we could discharge our trust no better, than in observing the direction of those who sent us hither. I Received an Address from the City of *London* (having the Honour to be one of their Representatives) in the matter of this Bill of Excluding the Duke, &c. I heartily wish some Expedient may be found out to save our Religion without it. But I must pursue my trust, therefore I move a Bill may be brought to Exclude all Popish Successours, and in particular *James Duke of York*.

*Lord R.* I have the same obligation upon me as the worthy person who spoke last, from the Country I have the Honour to serve for. I have been of opinion, that nothing but this Bill can secure us from Popery. In the long Parliament, 'twas said, that the Duke was a Papist; and the danger of his power will be more now, and every day informs us of the sad consequences of it. I should be glad of any thing but this Bill could secure us. I know nothing else can, therefore I humbly move for it, &c.

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R. M. The security of the Protestant Religion, and the preservation of the Kings Person, is of so great weight, that we should not have staid to this day to Exclude the Duke; but I am sorry to hear that Language, that because the King has said in his Speech, he will stick to his former resolution in not altering the Succession, &c. and proposed a kind of Expedient, &c. but in this we are not used as an *English* Parliament, but a *French*, to be told what we are to do, and what not; 'tis the greatest Arbitrary power in *England* to cow a Parliament, which may be was in design to bring us hither; but be we called to *Tork*, or any part of *England*, I believe we shall be the same men we are here, and were at *Westminster*. My Lord *Danby* Dissolved the long Parliament, and said, he had spoiled the old Rooks, and had took away their false Dice; and then started in the new Ministers, and they shuffle and cut again, and Dissolve Parliaments, till they can get one for their turn. I have heard much weight laid upon Disinheriting the Duke; sure no Father will scruple to Disinherit a Son, or a Brother, nor turn away Servants that would ruine him. If Bishops and Councillors would speak plain, they cannot answer deterring our security so long. But neither the Ministers of the Gospel have endeavoured the preservation of our Religion nor the Ministers of State the Government, both acting against Religion and Safety of the Kings Person. And I have no expectation of our safety, but the Bill to Exclude the Duke, and therefore I move for it, &c.

H. C. If this Debate must be proceeded in with the Regularity and Circumspection it ought to be, you have transgressed the Order of the day already. Several Gentlemen tell us, that there is no Expedient, but none tell us what is. All men believe the Religion of the Duke is as fatal a thing to the Nation as can be, should he come to be King; and what do they deserve that perverted the Duke? But let us consider what depends upon this House, and let us proceed like men. If we are of opinion, that Exclusion of the Duke is the best way to preserve Religion, this House cannot do it alone; if we cannot have that best way, we are guilty to our Country, if we take none. If a man be sick, and so ordered that nothing must be taken but by direction of three Physicians, and two are for giving him the Jesuits Powder, and one against it, and he thinks he does the duty of his profession; but they all three not agreeing it, must the Patient take nothing? And we are but one part of the Legislative power. But for Expedients I remember in the *Dutch War*, the House went into a grand Committee, to consider Expedients for raising Money, to save Land-Tax. A man whoever he be, that proposes an Expedient, will desire leave to make good that Expedient and must speak it, may be often to it; but if it prove to be none, that man will be trampled upon. A Committee of the whole House will be most proper for this purpose. If there be a dispute which question shall take place, if the first be denied, the other may take its place; but not one to exclude all the rest, as this Bill will do. Let it be Exclusion or Limitation, or what it will, your order is general, to find out means against Popery, and preservation of the Kings Life. When men press on so fast, they may come late into their Inn by tying their Horses. Let a grand Committee try Expedients, else 'tis not *consultare* but *dicere*. I am of a contrary opinion of having this great matter Debated in the House, and for the reason I have told you; and if Gentlemen you will do reasonably, a grand committee is your way to proceed in.

J. S. You have had Motions proposed for Expedients, but there is not a word of Expedient in the Order, and that answers it. (*The Order was read*) Those who were here present when the Order was made have left it free for a Bill, or any other thing; and therefore they are not tyed to have Bills, or offer Expedients against Bills. To the simile of the three Physicians, that two could do nothing without the third, though one was for one thing, and another for another; if the case be such, that the two in the judgment of the third, did offer nothing to the sick man but what was Mortal, he ventures upon his own Disreputation to joyn with them. However, the three Physicians do not agree; we never yet saw any thing from the Lords in answer to this Bill; all Expedients have hitherto been to increase our fears of the King, and to hasten our undoing, and when all was at stake, to have Parliaments Dissolved, that was an ill Expedient. Those who were near the King, and altered their own judgments, and are come over to this Bill, &c. they are all put away, and those about the King now are for Expedients. The Council of the Jesuits, they have their end, by disappointing the Kingdom, and by raising the fears of the people, either to take up with a false security, as good as none, and so to impose Popery upon them that way, or to bring the Kingdom into disorder. When Religion and Laws, and all are at the dispose of a Popish Successor, the Kingdom will be in great disorder, that the Protestants will not be able to enjoy them quietly; the Papists have no surer way to effect their end. For the House to go into a grand Committee, 'tis a Motion of great weight. If you deny it, it looks as if you would precipitate, and deny free Debate. If you accept it, you will lye under the inconveniency of de'ay and

who knows how long we have to sit? If we were sure of our time to sit two or three Months, I would be willing to go into a grand Committee. But as to the ill umbrage of refusing a Committee, tis not like other cases. I would have an instance, if ever in a thing of this weight, the House went into a grand Committee. This matter of Excluding the Duke, has been depending two Parliaments, and any other way for our security would have been accepted. Nothing else could be found out the last Parliament, the whole Kingdome was satisfied with nothing else. And now what reason is there to go into a grand Committee, for a thing so often debated to the bottom? No man can deny but a grand Committee is proper, when something of an Expedient is offered; but to offer it generally, is as if the thing was never consulted nor debated before. I never saw any Expedient but this Bill, nor any reason offered against the Bill, but set it aside, and think of Expedients. Therefore pray proceed according to the Order.

L.G. If any Gentleman have Expedients, I desire he would propose them; if they be of any weight, they will deserve well of the House; if it seems to them they will give us security, I would be glad to hear them.

Sir J. E. When the Motion was first made, for going into a grand Committee to hear Expedients, &c. I did then second it for this reason; because of the Honour of the place I serve in. I did understand by the Kings Speech there was Expedients. I am unwilling to determine the sense of any man, who am of the weakest. But a Motion was first and seconded for a Committee of the whole House, and when that is done I shall offer something.

T.B. I must speak against that Question of a grand Committee, pray keep to the Order of the day. Expedients that have been moved for already, as the Jesuits powder for an Ague, &c. but our Disease is a Plurisie, and we must let blood. Let us go to what will do our business, and it may be we must have other Expedients to fortify the bill. I would have the House rightly understand, that those who are against going into a grand Committee, and for Excluding the Duke from the Succession; and those who are for a grand Committee, are for him to succeed; and put the Question if you please.

Sir F. R. To Exclude the Duke from the Succession, &c. that is a good Expedient to prevent Popery; pray let that or others that shall be presented be considered.

Sir T. M. If there be but one Expedient offered, I do not think that ground sufficient to go into a grand Committee to consider it, but possibly there may be several. This Bill is agreed to be an Expedient; and I have known, that in a business of less weight than this, you have gone into a Committee, &c. If an Expedient must be offered in the House, you cannot but allow Gentlemen to make replies in a fair Debate, to answer Objections. And if you in the House will depart from that form, the House or Committee are equal to me. But our Debate is broke; one Gentleman said, he would be content with a Committee, if not intended for delay. I do not doubt but this day will have its full effect. When 'twas moved on Thursday last, for this day to take into consideration the preservation of Religion, without naming Bill or Expedients, it gave a great credit to your work. I would have no discouragements upon people that have Expedients, by not going into a grand Committee.

R. H. We are perplexed in having several Questions on foot. I shall put you in mind, that this Bill now proposed, is no new nor strange thing. Our business I suppose, is to find out Expedients to preserve the Protestant Religion, and the Kings Person; here is a way has past two Parliaments already; a way no reasonable objection has ever been made against it; and a way rejected by the Lords in gross, without offering any other. But I doubt, if other Expedients be tryed, if they prove false, we shall endanger the Protestant Religion. Some have said, that Gentlemen apprehend they have Expedients; why then may not they be propounded, that the House may judge whether 'twill be worth going into a grand Committee to consider them? But if Gentlemen will have it their own way, or not at all, I'll tell you how this looks, as if they were something one way, and nothing another: but he does not discharge his duty to his Countrey that does so; therefore if Gentlemen have any Expedients, pray let them offer them.

Sir J. E. If the House be of a mind not to enter into a grand Committee, I shall offer my little mite, as tis every mans duty to offer Expedient that has any. I doubt not but other men have, and better than me; but if we go not into a grand Committee, I shall offer what I have. I do apprehend by the Bill proposed, that 'tis a Bar to the Succession of the Duke, and places the Succession in the next Heir. I shall propose, if you please, not the Name of King, but the power as a Regency in the next Heir, 'tis no new thing; in Spain and France, and (God knows) we have seen it done in our Kingdom. If the Administration be placed safe in the person, that may have no power to resign to the Duke, and may have full power

and authority at the death of the King to call that Parliament which sate last, who shall have time to sit to confirm this by Act of Parliament. I hope this may be done, and may be done safely, if you can contrive such a way.

*Sir N. C.* As I understand, 'tis propos'd, that the Government shall be in Regency during the Dukes Life I would be satisfisd if the Duke would not submit to that, whether those that fight against it are not Traytors in Law.

*Sir W. P.* I think this you are upon a matter of great weight; some Expedient has been offer'd you; I believe as yet but a crude one, and I cannot imagine will ever be an effectual one. He that moved it, tells you, he hopes when drawn into better form, it may do what you desire. It Excludes the Duke and in his place, the next in the Succession shall have the Regency in him.—But our last act left it in the Law, Consider what is a Regency; I never heard of it; but of a Prince in possession, in Minority or Lunacy, and it, has generally been very unfortunate. But to talk of a Regency *in futuro*, in condition and limitation of time I never heard of. This Expedient does not answer the Kings Speech, nor your former Bill; they make the King but a shadow, and they divide Person from Power, our Law will not endure it. The Person divided from the Power, both will be courted; and who that next Heir will be we know not. The King leads you to consider Expedients, but such as will consist with the safety and dignity of Monarchy. This must be two Kings at the same time, one by Law, and another by Right. *Portugal* gives us some instance of Regency, where the King was put into prison for Miscarriages, in the Government, and his next Heir made Regent; but there is a vast difference in these two cases. The King of *Portugal* was set aside for personal Miscarriages, not for being a Papist; and which is another thing, that was present, this is to come. If this Question be to let the Duke in, and then make a Question whether Allegiance be due to him; but I am afraid, that unless we be true to those we represent, from whom by Express direction most of us are to pursue the Bill, &c. we shall not be avowed in what we do. The Bill, &c. has been under consideration of all the people of *England*, and perhaps all the Protestants of *Europe*; all the Wits of Learned men have made their Objections against it, yet notwithstanding, all people are still of the same mind.—And now we run upon the most mis-shapen thing, which it may be two or three years before we understand it, and we may expect to have an operation of it no body knows when. I see very little weight in it, unless improved by some other person; therefore I am for the Bill.

*Sir T. Litt.* We are flying at a great matter. To fight against the Duke if he should be King—God forbid—We have been told three or four times of Directions Gentlemen have had from their Principals, to be against all those things of Expedients, and to insist upon the Bill of Exclusion, &c. I would not have that way much cherish'd 'tis an uncertain thing; and no footsteps remain of any papers from their Country. I take the meaning of that going down, is to consult their Neighbours for Direction what to do. I hear talk to day of Parliaments of *France*, but this way is as dangerous; like the States of *Holland* to consult with their Principals before they resolve, most unusual and of very dangerous consequence. A Regency has been propos'd to secure the Administration of the Government in *Protestant* Hand, so as not to alter the constitution of the Monarchy; and this alters the Constitution of the Monarchy the least imaginable. A Regency in Room of a King, and the Monarchy goes on. We have had Regent Protectors, call it what you please, *Primus Consiliarius*, in case of a Minor Prince; but I propose not this. If you alter the Government, I am against it; but here is offer'd a Regent in place of the King, or transferring the Government. But it may be said, Where shall the Duke be all this while? That point I think is pretty well over, there is no design of Seclusion.—The Lords would have Banished him 600 Miles from *England*—The Duke has an Estate, and He as all men beside loves it, and will not part with it, and will do nothing to forfeit it.—But your Bill of Exclusion secludes the Duke, and the Crown then is to fall as it does fall. What is then the Case? You must imagine, either his own Daughter will take up Arms, if the Duke attempt the Crown, or some body else will, to keep him out, and that will raise such an Anger in the Dukes mind, whether will they shelter themselves? Not under his Daughter; they must naturally shelter themselves? and run into Armes. *Cromwel*'s way was to keep up an Army of Sixty thousand Men for his security, especially an Army flest with Victory. And they that have it will keep it. We are not in the condition we were formerly; when the Lords cherish'd their Tenants by good Leases, they could raise an Army, & send them home to their houses when they had done what they were raised for: But we are now in another way; raise an Army, and they will

think of their own Interrest to be kept up. But if it fall out thus, your Bill leaves it very lose.—As soon as this Bill is past, suppose the Regency established in the Princess of *Orange* or the Lady *Ann* and in the same Law a Commission be sent over to take an Oath from her strictly to execute this Law, you are then not left in that loose manner you will be by the Bill, &c. 'Twill be a far less matter for her to save a Family, before Misfortune come upon it, than to take the Government upon her afterwards, in the trouble of an opposition. But it may be said, What needs all this, 't's just nothing but retaining the name of K. in an exiled man? — But 't's less violation in her to Govern in her Fathers Name, than to take the Kingdom from him. It may be wondered, why in *Portugal*, upon Deposing that King, there was a great Debate of the three Estates (though they hold not the proportion as they do here) In this great Debate the Commons were for *Don Pedro* to be King, the Nobility to have him Regent, the Ecclesiasticks Demurr'd, but at last both came over to the Nobility. But *Don Pedro* stuck here, and would still leave his Brother the Title of King, and would leave nothing of shelter, to force Nature too far, There are Reserves in the King's Speech I cannot but take notice of by the way. There is another thing to be considered. Some will be paying a deference to the Sacredness of a Crown, for Governments sake. This Objection looks like something, He is like to be five hundred Miles off, &c. and a Law to take up Arms against him.—How was that Law, that the King and Parliament have power to dispose of the Crown? it was then an Opinion amongst the Lawyers that the Crown was unalienable; but when that Law was made, that Opinion was damn'd under a penalty; though 'twas a standing Maxime, before that Statute was made. If so, this new Act will be a Warrant for what is proposed, as that was for the other. For my part, I have had the ill fortune to have the wind in my face, and to be against the generall Opinion and stream of the world; and having had for some time no share in the Government, I may speak possibly more freely than they that have. 'T's a great Crime to spy things too soon, which makes men apt to run from one Extream to another. I have proposed the best Expedient I can, and most safe; but I am afraid, if you do nothing in this great Affair now it is started (I'll grapple with neither of the Expedients, but if you do nothing but let the thing lye loose, you'll gratifie the Jesuits by our confusion, and the commonwealths men to shuffle the Cards again. But if you go into some Medium, both these sort of men will be undone.

*Sir W. J.* I have heard with great Attention this very Learned and able Gentleman. I am really of opinion, if any better Expedient could have been found out, than what has been proposed, that he as soon as any Gentleman would have proposed it. But I am amazed, that so learned a Gentleman should not see through this Expedient. That which I take for the Expedient is, the Duke to retain the name of King, and the next Heir to be under the Title of Regent or Protector: What does he mean by next Heir? For any thing I know and believe, it is the Dukes Daughter; but it may be the Duke may have a Son. Either I have a great cloud upon my understanding, or this is strange, that if the Duke have a Son, and shall he at a Day, a Month, or Year old be Regent? Suppose the Princess of *Orange* come over, and she dye, (the Prince of *Orange* has no Right to the Regency) and she leave a Child, and that Child be Regent, that Child must have a Protector; and so there will be a Protector of a Protector. But, Sir, we are told, that nothing but to keep up the Greatness of the Government makes them go from the Bill of Exclusion to this Expedient. But is it so great and pleasing a thing to wear a Crown, and be called King, and have no Authority? It is much worse than to loose an actual Crown and the possession of it. If the Bill pass and the Duke be Banished 500 Miles off, it must be out of *England*—if the name will please him, in Civility beyond the Sea he shall be King, and it will be as much to his purpose beyond the Sea to be called King only, as here——But for the Security of his Estate being here: He that would venture the loss of a Kingdom for Religion, will his Estate too; that's but a weak ty. It is less injustice to take away the Crown and power from him, than to have of both but the Name. If you allow the Duke the Name, it will imply a Right; therefore for that to be used as an Argument is strange. But why is this Contention and all this ado, I wonder, for an empty Name (But I am afraid this Expedient is a kind of Jesuit-Powder (I do not think the Gentlemans Intent or Opinion is for the Jesuits) but a wise man may over-do sometimes——If you do not Exclude the Dukes Title, the Duke is King still, and then will Learned Lawyers tell you, that by 1 H. 7. all Incapacity is taken away by the possession of the Crown. If you take not away the Discent of the Crown, and that the Duke has a Title to be King, then without Doubt all incapacities fail,—but if the thing may be effectually done, I am as willing to exclude him the Name, as well as the power; but Lawyers know no distinction.—When the Lady comes to be Regent, not only Nature, but Conscience will put her upon giving *Cæsar* his due; and perhaps that Text  
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some of our Divines will preach upon. They'll say that the Parliament by what they have done, acknowledged a good Title in the Duke. But if he be King, as the Parliament allows him to be in Name, he has right of Descent, and so will be restored to all the Rights of King.—An Argument upon Queen *Marie* like this, restored the first Fruits and Tenths.—Another thing perhaps may come from them that proposed this Expedient, ( I do not believe it came from that Gent. &c. ) if you had past the other Bill, great many would not submit to it, but if you pass this, if the Duke have right to be King, and be kept from the Administration of it, I doubt whether I shall fight against him. And the Papists will say, you have got a Law to separate that which is inseparable. I would, if I were as the Duke, have this Bill to perplex my opposers, rather than a clear one. He has told you of an Army to maintain the Bill, &c.—which will not soon be laid down. But why an Army?—If there must be an Army for your Bill, there will be four Armies requisite to maintain the Expedient.—A protector has been proposed, not like that of *E. 6.* who was little more than the now Lord President of the Council.—But certainly they who proposed the Expedient, would have by it the same power of letting in the Duke, as of keeping him out. Therefore I move to lay aside this consideration, and take up the Bill as has been moved for.

*L. G.* I think it is fit we should present Reasons to the King for passing this Bill of Excluding the Duke, &c. I do think that the Administration of the Government has been in such hands since the King come in, that though the Ministers have been changed, yet the same principles remain to this day, though some have been removed.—The breaking of the Triple League, the taking of the *Dutch Smyrna-Fleet*. The King of *France* makes War for his glory, and we for nothing but to get Riches to make the King Absolute. Such a violation was done upon the Rights of the people as has been done.—*He was called down to Order*—

*E. V.* A Question so extremely well spoken unto, to be interrupted with any angry Question, is not very decent at this time; what is spoken of, is matter to be enquired into another time, though the Gentleman does it with a worthy intent. If any Gentleman have any thing else to propose, pray hear him.

[ *L. G. Goes on* ] I intended to Move you for Reasons to induce the King to pass this Bill. The strange and dishonourable Retrenchments made in the Kings Family.—He is surrounded by the Dukes Creators.—'Tis not safe for the King to part with any one Minister, unless he part with all; and when these men have got a Bank of money for a Popish Successor, then will be the time to take away the King.

*Sir F. W.* This we are upon is a matter of great weight and difficulty. Let any man that can, maintain this Expedient, or give you a new one.

*Sir T. M.* I have heard with patience *this Expedient* which has been well offered, and I believe mistaken by the Gentleman who answered it. I must say this, your Question and your business is *Religion*, and I have given a good proof of my zeal for the *Protestant Religion* this twenty years as any man has; and I have been for this Bill of Excluding the Duke, &c. I am of opinion something must be done to secure *Religion* For the point of *Law* mentioned, if the Law be such, *That Dominion must run with the Name of King*, that single Reason is to carry the Debate. But if I answer not that, I am at an end. But sure those words that can disinherit a King, may make this *Expedient* Law. I would not rise now, if I thought the Bill to Exclude the Duke, &c. could pass; my grounds are but conjectures. The last *Parliament* I did think this Bill would pass with greasing the wheels. The condition of *England* is thus; we do need one another, both *King* and *People*; and we have need to make use of a *Parliament* to assist one another, to relieve us in the difficulties we are in. If the Duke should be *King*, he will need a *Parliament*, and so will the people. In order to this, if another *Expedient* can be found out as like this, though not the same, which no objection of Law could destroy, he would do the King and Kingdom great service and advantage who would produce it. In this necessity we are like two great Armies encamped upon two Hills, and neither dare remove, not for want of Valour, but from their Reason: he that has the last loaf stays longest, necessity compels the other to decamp. At last it must be one side or other, or else *England* will have the worst of it. But if none will venture to clear the matter in point of Law, I am answered. If any could alter that Bill, that it should not be the same we have had twice before, I should like it. I like this *Expedient* offered you, for 'tis a Bill of *Exclusion*, and so strong a one, that the Duke may choose the first rather. I am for the nail that will drive to do our business. If Gentlemen have other thoughts, pray so contrive it, that we have one Bill or t'other.

*W. H.* All the *Expedients* I have heard yet, are like a *Cucumber*, when you have well drest it, throw it away. These Gentlemen tell you, they will bring in a Bill of Excluding the Duke from the Regency, &c. This proposition is either honest or not; if it be honest and without design, then all the dispute betwixt the King

and *Us*, will be, whether the *Duke* shall have a Title to the Crown. But I hope the King will rather gratify the Nation, than the Duke. If th's be not honest, and people about the King circumvent him, they will find means from day to day to divert him. Why was *England* so fond of *Calis*, but to have some footstep into *France*? And so this Bill, let the Bill pass, and all those Gentlemen who have dependency upon the *Duke*, if he come to the Crown, will change matters.

*Sir F. W.* A worthy Member not being satisfied with Argument of Law against the *Expedient*, that calls me up, as in my profession. The Question about this *Bill of Exclusion*, that 'tis lawfull in Conscience, no man will oppose: the great opposers of it in the *Lords House*, agreed it lawfull when they threw it out.—Not *Jure Divino* unlawfull *concurrentibus iis qui concurrere debent*. Some Gentlemen told you, their Country gave them instructions to press th's *Bill of Exclusion*, &c. *Sir T. Lit.* said, it was dangerous to take Instructions from the Country: But I say, 'tis much more to take it from Court. *Parliaments* formerly upon any extraordinary matter, staid, and sent their Members to consult with those who sent them. I am not subjugated (when I am here) to what the Country does propose. I am as much against a *Republick* as he that fears it; but I am a Protestant. I say, I know *Sir T. Litt.* to be of that Experience and Reason, that if he go away satisfied in this matter, he will do all the good he can in the post he is in. But to keep close to this question; It being allowed by Law, *That an Exclusion of the D. from the Crown may be*; the next thing is to consider the *Expedient of the Regency* proposed. The same Authority that can make a Descent of the Crown may modify it. He argued to shew that the *Regency* would make the *Duke* insignificant in the Administration of the Government. Now the Question is, which is the most practicable. We Lawyers are aptest to go on the strongest side, and to call every thing Prerogative. I'll put you a case, in King *James's* time, the *Sheriff of*—there was an exception in his Commission, that he should not keep the *County Court of*—but should have all other Exercises of his Office. But the Judges resolved he was *Sheriff* to all intents and purposes, and that he could not be hindered keeping the *County-Court*. An Act of Parliament against common sense is void. To make a man King, and not suffer him to exercise *Kingly power*, is a contradiction. Some clauses formerly in *Acts of Parliament*, were flattering clauses, to satisfy the people, and not let them have the thing. Should this of the *Expedient* be an *Act*, 'tis nonsense, and may be said hereafter, the House of Commons were outwitted. I owe the *Duke* obedience if he be King: but if he be King, and have no power to govern, he is the *King* and no *King*. I have urged this to shew, that this is no *Expedient*, it blears only peoples Eyes, and is no solid security. To say the *Duke* values his Estate, which he may forfeit, &c. He loves a Crown too very well, therefore you are not to arm your self in point of Conscience, but in point of Reason. The last Parliament I did see, by the management of the Papists and the Ministers, that without this *Bill of Exclusion*, our ruine is irresistible. If the *Duke* come to the Crown, he brings with his Religion *Merum Imperium*, and that made me fond of the Bill; but if by Law the *Duke* never was King, there is no case of Conscience lyes upon us in his *Exclusion*. I will only make this observation of the *Kings Speech*, in relation to this Question—*And if it be practicable, the ridding of our selves quite of that Party, &c. and not to lay so much weight upon one Expedient, as to determine all others are ineffectual, vide Speech.* The two main points (it seems) the King doubts himself, and all this delivered by the King in great wisdom, is clapt off to this *Expedient of the Regency*. You see now we come to *Expedients*; the Ministers have had two *Parliaments* to consider it, and now we are come to this *Expedient of the Regency*. I find no security in Law by this *Expedient*; you take away nothing by this *Expedient*, and therefore I hope the *Bill of Exclusion* will pass. I hope that reason, and not great Offices, will take men off from their *Nemine contradicente*. I speak this as if I were a dying man, and Humbly Move for the *Bill*, &c.

*H. B.* I have it in command from my Country, *That they apprehend no Expedient to secure us from Popery*, but that the Remedy will be worse than the Disease, unless this Bill. I have heard as yet no Reason given against it. But there is an *aliquid latet*. If the D. be not set aside, I am sure the Government will be; and therefore I am for the *Bill of Exclusion*, &c.

*Sir T. M.* I know not how far *Sir Fr. W.* Argument may be pressed, what *Bill* soever we may have. Pray let us have the Law on our sides, that if the King should dye, we may know whether we are to go. I think the *Ks's Speech* is penned as it ought to be penned; and should a *King* speak positively to what *Laws* He would have, we are an *Irish* Parliament, and not an *English*; but the *Kings* words are tender words. The thing lies fairly before you, if any *Expedient* can be thought of, not to destroy the

*Monarchy*; and if the next presented be not the best, not to refuse the next.

E. V. You have had an Expedient offerd you of a *Regency*, &c. instead of the *Bill of Exclusion*, &c. Pray consider what this *Regency* is? 'Tis the whole Office of a King to appoint Judges call *Parliaments*, &c. This Power they would take away from the *Duke*. But if by Law they will reserve the name of King to the *Duke*, 'tis to bring a War upon us, and to bring the *Duke* in by force. This *Regency* must be supported by War, as well as the *Bill of Exclusion*. By the 13 *Eliz.* the *Crown* is not alienable by the King but may be alienated by King *Loras and Commons*. And when that Statute was made, no Successour was named, to keep King *James* in awe; which I conceive was the Reason why none was named in the last *Bill of Exclusion*. Though we have bin frighted out from that *Bill* by *Prorogations* and *Dissolutions*, yet 'twill not frighten them whose Reasons go along with it. And I am for that *Bill*, because all men are for it, and have sent, up the same Parliament again that past it. But if you lead people into uncertainties in the Government (as this project of *Regency* undoubtedly will do) the *Court* and the *Country* will be of a mind to lay aside *Parliaments* because they are useles.

Sir H. C. Peoples eyes are now enlightned, and all the world over they are an informed people. The *Papists* care not who is King if he be a *Papist*. And so he proceeded much to the same purpose in several Speeches in the last Parliament.

Col. G. L. I would not have spoke so much out of duty to my Master, but for the duty I owe to my Country. I owe a new Obligation to the King for I am the *D's* Servant from the King, My Father was a Servant to the late King and this; and I have my protection under him. I was bred in *England*, and for his Service at Sea. I know my own weakness, not being bred to the Law; but by enquiry I find, that the Doctrine of disposing a Kingdom from the Right Heir is Damnable: and 'tis the Doctrine of the Church of *Rome*. I have heard that in the 24 *E. 3.* the King demanded Advice of the *Parliament*, in matters relating to the *Crown*. The Answer was by the whole *Parliament*, *They could not advise in anything relating to the Crown, nor of disinheriting Him to whom they were sworn*. The Fundamental and Common Law of *England* has made the *Duke* Heir to the *Crown*, if the King have no Sons. The Title of *Hen. 4.* was confirmed by *Parliament*, but he laid his Claim of Descent from *H. 3* and it continued in that Descent till *H. 6.* and then the *Parliament* declared that those Acts were not binding but unjust; and declared the Oaths of Allegiance to those Kings in famous and wicked; and so the Right Heir came in. *H. 8.* had Power to dispose of the *Crown*, by his last Will and Testament, to place and displace the *Crown* at his pleasure, yet all his right Heirs came to the *Crown*; though *Jane Gray* claimed it by vertue of that Will, and baited her Title with Religion. Queen *Elizabeth* made a Law, *That whoever did maintain, That the Crown could not be disposed of by Parliament, should be Guilty of Treason, &c. and for ever after of Præmunire*. But since that, there is a Restoration of King *James*, which acknowledge him lawfully, rightly, and justly the next Heir to the *Crown*, and did beseech the King to accept of their Allegiance to him and his Posterity: And I think our Ancestors swore to the King and his Posterity, as well as we. 'Tis a great Happiness to this Nation that both the Lines are united, and that we are rid of the Misfortunes of the *Barons Wars*. We have had Attempts to turn the Government into a *Republique*. And who knows but that if you put by the Right of the *D.* the Revenue of the *Crown* being much upon the people, but that there may be Attempts to turn the Government into a *Republick* again? When my Father was in Prison in the late Troubles, an eminent man then in Power in discourse with him said, *I have obliged you, and if the King come in, as I believe He will, then think of me; Look to your Selves when you are in the Saddle again: If once you divide, adieu to Monarchy for ever*. If you keep out the *Duke* what must follow? *An Act for Association*; I speak now for *England*, and for my Posterity (I have seven Children,) How will this look? The Kings Father Murder'd, and his Brother taken from Him; Will this stake no effect with the King? I wish the *Duke* many happy days, but the King more from my heart than the *Duke*. The King is a healthful Man, and the *Duke* is not. I am not barely the *Duke's* Servant, which makes me concern my self; nor out of pique of Honour would I do any thing to destroy my Posterity. Therefore I am against the *Bill*, &c.

Sir W. C. That which calls me up, is to answer something that was said by the worthy Member that spoke last; I am for the *Bill of Exclusion*, (and was so the last Parliament) because I am clearly satisfied there can be no Security without it. But I must so far agree with him that this *Bill*, (if it should pass)

will not be a full and compleat Security. But——Here being an Interruption by a noise in the House, this Gentleman proceeded no further.

Col. B. This is the day of *Englands* distress, and not only *England* but upon this days Debate depends the good fate of the *Protestant Religion* all the world over. Except you expect a Miracle from Heaven, nothing else can save the *Protestant Religion*, but this Bill of Exclusion. I think I have said this many years ago, *That Popish Matches would bring in Popery at last*. As to the point of Law (spoken of) that 'twill be interpreted according to the strength of the Party——But I doubt not, if we do our endeavours, God will help us, if we have nothing left us but Prayers and Teares. We are in condition of Conquest or Compact, and so is all Government. Interest must defend this Bill, and not an Army; we are the Army. I have a Family as well as others, and where Idolatry must be set up; and rather than my Children should breath in such an Air, I had rather they were buried, and had all the mischiefs in the world. Col. L. ingenuously offer'd some things; but without this Bill you may sit down, take a *Popish* Successour, and renounce the *Protestant Religion*. I would break this *Popish* Interest, and then Interest will maintain this Bill. If once this Bill pass, and as in *Queen Elizabeths* time Protestants are put in places of Trust, you need not fear the disturbance spoke of. Where ten were of this minde, an hundred are now that will bleed for this Bill. In plain English, let the world see that the *Protestant Religion* is dear to us, and we shall have the Law on our sides.

Sir T. Litt. I was mistaken by some Gentlemen in what I said: I shall be very short and tender of the time, because 'tis late. That of the *Lady Maries Regency* obviated an absurdity in the former Bill. If the Duke should have a Son, where are you then? The Lady cannot descend from the Throne, having possess'd it. But my meaning was that the two Princesses respectively should Succeed in the Regency during the Minority of that Son. The Bill of Exclusion is so weak a thing, that 'twill need all the props to support it. And a train of consequences will follow it. What is told you of *Scotland*, is worth your consideration; if *Scotland* be not consenting to it, I know not how you'll obviate that. It unites the *Papists* of *England* and *France*, which we ought above all things to prevent.

H. B. He may be convinced by his own Argument. For by so much the easier 'tis for the Princess of *Orange* to descent from her Authority of *Regent*, so much the less is our security. And for *Scotland*, the same Interest that passes this Bill here will do it in *Scotland*, and in *Ireland* there is no need of it. By this Proposition of the *Regency*, all Commissions Military by Sea and Land, Church and Law, are to go on in the Dukes name. And if all Dispatches under the Great Seal must go under his Name, we can have no Security. The Oaths of Allegiance and Supremacy can be taken to none but him; and if that be granted, *That 'tis unlawful to take up arms against the King or those Commissionated by him*——If that be not a true proposition, I know not why that Declaration was made: It lies loose to me, I must confess this *Expedient* seems to me, as if a man that scorched his Shins at the Fire, instead of removing himself farther off, should send for a Mason to remove the Chimney back. I have heard from Lawyers, That if a man do make a Freehold-Lease to begin from the date thereof, 'tis void. It would be more ingenuous for the Gentlemen to say, If you do pass the Bill to exclude the Duke, they will not be bound by it, they will have the Duke to Succeed; and then I wish they would tell us what will save the *Protestant Religion*. If the Duke come to the Crown, will Gentlemen choose either to be *Papists*, or burnt, or hang'd? I have no disrespect to the Duke if this Proposal could keep out *Popery*: But if I am to leap over a River, I had rather have no Staff than a broken one. This can be no Security. If you leave it in the power of the Council to make War and Peace, and dispose of Money, Pray then where is the Government? Either they will be faithful, and keep the Law of Regency; or the King must be King but in the name, and they the Soul of the Government. I have heard the Expedients with patience, and have not been over-hasty to put the Question. But I see no Remedy to save Religion, unless excluding the Duke; Therefore pray put the Question for the Bill, &c.

*The Question was stated.*

R. H. You have been moved to add to the *Duke's Exclusion* all other *Popish Successours*. This is a Bill on purpose to Exclude the Duke only. You may Exclude all other *Papists* from Succeeding, &c. in another Bill by it self. But I observe, that the way to loose a Bill is to clog it.

H. C. I shall only observe, that by the last Bill of Exclusion, if the Duke should turn *Protestant*, He will be Excluded; and if the Princess of *Orange* turn *Papist*, she is not Excluded. Vid. the Vote for the Bill in Print.

*An Account given of the Lords throwing out the IMPEACHMENT of Fitzharris.*

Sir T. L. **I** See by the Lords refusing this Impeachment, no farther use of a *Parliament*. They will be a Court, or not a Court, to serve a present purpose. —

Sir W. J. In a matter so plain, and which concerns the very being of *Parliaments*, I am unwilling to make unnecessary doubts. If an Action be brought in the Lower Courts, it does not hinder the Action being brought in *Westminster-hall*, if no Judgment upon it; and it holds the like in this case. *Indictments* were brought against the Lords in the Tower at *Common Law*, and yet was no *Impediment* to their *Impeachment* in the *Lords House*; but here is no *Indictment* or prosecution brought against *Fitzharris*. We have an Instance fresh in Memory; The Lord Chief-Justice *Scroggs* a Commoner, and not Indicted at *Common Law*, yet the Lords without any scruple accepted his *Impeachment*; so that we need not spend our time to search *Precedents*. Perhaps the *Lords Journals* were not made up, but our *Members* have taken Notes out of the *Minut-Book*—by them we find the Lords have determined a great point. The *Lords Spiritual* as well as the *Lords Temporal* have Voted it, which we own not in this Judicature, nor I hope never shall; and we are denied Justice by the *Lords Spiritual*, who have no Right to Vote. This is doing a double act of Injustice. And since the Lords have taken upon them to throw out the *Impeachment* of *Fitzharris*, let us Vote, That the *Commons* have a Right to *Impeach* in Capital Cases; and that the Lords have denied us Justice, in refusing the *Impeachment*. And after you have asserted your Priviledges, then draw up Reasons for maintaining them. And if the *Dissolution* of the *Parliament* follows, it's the fault of those Men who will not hear our Reasons, and in a *Parliamentary* way at a Conference shew how unwarrantable the Lords Actions have been in their way of proceeding.

Sir F. W. If this *Impeachment* of *Fitzharris* was of so ordinary a nature as a Monopoly, &c. I should not press upon this matter. But this is not an ordinary Accusation, but that which relates to our Religion and Property; and how the *Bishops* come to stifle this, let God and the world judge. I would know if a man be *Impeached* by the *Commons*, and no *Indictment* against him, (only the *Attorney-General* told the Lords, that the King gave Directions he should be prosecuted, and no Record against him) whether this is a ground to deny our *Impeachment*? If the Lords will Vote that the *Commons* shall not *Impeach* him, they may as well Vote they shall not be Prosecutors; But yet we will be so. This is a *New Plot* against the *Protestants*; of which *Fitzharris* is accused, and we must not *Impeach* him; in this the Lords fairly say, We must not hear it. If this be the Case, I desire you'll come to some Vote. You are willing to discover the *Plot* if you could. If the *Attorney-General* had prepared a Prosecution in an *Inferior Court*, and they had proceeded to Judgment, then it is pleaded in Bar to the Judgment of a *Superior Court*. If our Time be short, (as I believe it is) pray do not delay to come to some Resolution; if the House be satisfied in it, pray make a Vote to assert your Right. A little while ago, when the Duke was presented for a *Papist*, the *Grand Jury* you know was dismiss'd by Chief-Justice, &c. This seems as if the Lords were bound in Honour to justify the Judges Proceedings by their own. 'Tis a reflection of weakness in a man, who doubts in a plain matter; and if no man doubts our Right, pray Vote it so.

Sir R. H. I am glad we are off from the great thing yesterday. I cannot believe but that the Lords have Judgment enough to have cause for what they do, and in this cause of *Fitzharris* *Impeachment*. In this matter, *Precedents* you need not search. This of *Fitzharris* seemeth to me to be a more dangerous breath than usual, a breath fit to be stifled; there is something in this more than ordinary. If there be so sacred a respect to the common Tryalls of *England* in *Inferiour Courts*, 'tis strange that the House of *Commons* should be below a common Jury. If in the cases of *Skinner*, and the fact done beyond the Sea, the Lords contended with the *Commons* about Judging it, though it was an original cause, this was no great value of the Law of *England*. But it seems they value *Fitzharris* to keep him from us. When I have heard in all the Speeches to day, that the Duke does not go single, — and have heard so excellent discourses to day of that matter, I am loath to mingle my weakness. — But such Council as this, the King hereafter will have no cause to thank them, for involving him in the fatality of those Councils; as if they would make the Libel of *Fitzharris* the Copy of their Councils. *Dangerfield* was reputed a most infamous person, yet if he would speak what he knew, nothing of mercy was too big for him; But

*Fitzharris* is a man of no infamy, and yet they hurry him away to the Tower, when he began to confess in *Newgat*. Are you so lost, that you have no mercy left for the *Protestant Religion*? This is strange, if the terror of his condition make him confess the whole *Plot*, & he be taken out of our hands. We hear of other things, as that the *French Ambassador* had a hand in this *Plot*, which a Jury will not inquire into, their business is only whether *Fitzharris* be guilty or not guilty of the indictment. I must confess, that with the carriage of this, I have enlarged my suspicion, for I cannot but suspect unusual ways. The worst of Mankind with all his Villanies about him, has been pardoned.--- Is there in this any provocation given by us? but something depends upon this Man, as well as upon the *Bill* to day. When you was told by *Sec: J.* *He would not carry the Impeachment*, &c. and the House would make no breach, by taking any severe course against him, but pass it over with temper---sure we must not lay down all prosecution of the *Plot*, and say, that the *Protestant Religion* shall have no mercy. *Fitzharris* may merit mercy by confession; and if his breath be stopt by the Lords, I am sorry that people will say, *if it were not for the Lords, Fitzharris might have discovered all the Conspiracy, and the Protestant Religion might have been saved.* I Move therefore, that in your Vote you will not only say, *That denying this Impeachment, &c. tends to the subverting the Constitution of Parliament, but of the Protestant Religion also.* & I hope we shall proceed in this with the same calmness of mind that every man does wish, who would not lose his Religion.

*Serg. M.* A *Plot* we all know has been on foot in *England*, and I am sure in *Ireland* too, and what Arts and Crafts have been used to hide the *Plot*? It began with Murder and Perjury, and false Subornation & this of *Fitzharris* is a second part of that, We have sent up an *Impeachment* against *Fitzharris*, and the Lords deny to receive it. In effect they make us no Parliament if we are the prosecutors, and they will not hear our Accusation, tis strange, when their own Lives as well as ours are concerned in the *Plot*. The same day we *Impeach Fitzharris*, the Lords Vote, *we shall not prosecute him.* --- Now when all is at stake, we must not prosecute. if this be so, *Holland* and *Flanders* must submit to the *French*, and they run over all. This is a strange Breach of privilege, and tends to the Danger of the *King's Person* and Destruction of the *Protestant Religion.* Sir

*Sir T. P.* This of *Fitzharris* is a considerable Confirmation of the Former *Plot*; I call it the *Old Plot*, but 'tis still new upon us. This is a confirmation of the designe to *Murder the King*, and the *Duke* consenting to destroy his own *Brother* and our *King*. I have often heard it wisper'd, that this *Plot* was *Madames* Designe at *Dover*. 'Tis plain that *Justice Godfrey* was Murdered, and that the *Army* at *Blackheath* was to destroy the Protestants in *Holland*, and to awe the *City of London*. When *Fitzharris* was in an Inclination to discover what he knew, and two or three Honourable *Members* went to Examine him, this man was fetch'd the next day to *Whitehal*, and sent to the *Tower* and so we were deprived of all farther hopes of discovery. We have received the *Information* he gave, and now that the man may be in no capacity to discover farther, they stop his mouth. I move therefore that you will declare, *That if any Judge, Justice, or Jury proceed upon him, and be found Guilty, that you will declare them Guilty of his murder, and betrayers of the rights of the Commons of England.* [Vid. the Printed Vote.]

*Sir W. J.* Now the House has done as much as is fit for the Lords, but we do not know how *Inferiour Courts* will proceed; therefore I'll propose a Vote, *That if any Inferiour Court shall proceed, &c.* [which pass, Vid. the Print.] I would not give occasion to people to say we do things in an extraordinary manner. 'Tis late, and pray let's Adjourn.

Munday March 28. 1681. The Bill for Excluding the Duke &c. read.  
*Sec. J.* **N**O Bill was ever offered in *Parliament* of the like nature, so much against the Justice of the Nation; it condemns a Man never heard, and then 'tis a Law made *ex post facto*---Very extraordinary---against the Fundamental Justice of the Nation; and not only that, but against the wisdom of the Nation, and will introduce a change of the Government. If the *Duke* will try to cut this Law with his Sword, if he overcome, he will have the same power to set aside all Laws, both for *Religion* and *Property*; the power will be in the hands of the Conqueror, and certainly he will change the Government. 'Tis against the *Religion* of the Nation, which teaches to pay Obedience to our Governours, whether good or bad, never so faulty or criminal. In primitive Christianity, Obedience was paid to Heathen Princes, *in licitis & honestis*; and we are not to do evil that good may

come of it, nor on the prospect of any good. I shall say one word more, 'tis against the Oaths of the Nation, of Allegiance and Supremacy. The Duke is the Kings lawful Heir, if he have no Son, and in the Eye of the Law I am sworn to him, and every Oath is in the sense of the Law-giver. If this Disinheriton pass now into a new Law, who dispenses me from that Oath to the King? possibly I am too tedious, and not willingly heard.---If the *Bill* be against the Religion of the Nation, being obliged by Oaths, against the Government and the wisdom of the Nation, I hope you will throw it out.

*T. B. Sec. J.* has moved to throw out the *Bill*, and desired to be heard patiently; I find no body second him, pray let him go on and second himself. *Ordered a second Reading.*

*Sir W. J.* Because there has been much discourse in the Town of the Votes that past on Saturday, upon the *Lords Spiritual and Temporal rejecting the Impeachment*, &c. though I believe what is done will be made good, yet I would for the present, give the Nation all the satisfaction we can, that we are in the right. Amongst our misfortunes in being called to this place, we are far remote from *Records* and *Books*; but yet I think it may be easy to prepare our selves to maintain what we have done. According to the little light I have, I find it the undoubted right of the Commons, not only to bring *Impeachments* against Lords, but against Commons too. *Magna Charta* does not only say *Per judicium parium* &c. but *per Legem Terræ*, &c. Tryal by Parliament is *Lex Terræ*. I have heard of a Record, 4.E. 3. where when the *E. of March*.--

*The Black Rod came to command their Attendance in the House of Lords, whither they immediately went, and the Lord Chancellor by Command of the King Dissolved the Parliament.*

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FINIS.



